

Amendment Dated: October 18, 2006

Customer No.: 00909

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE PATENT APPLICATION OF: Hannes EBERLE *et al.*
SERIAL NO.: 09/661,375
ATTORNEY DOCKET NO: 067220-0312764 (23453-020)
FILING DATE: September 13, 2000
ART UNIT: 2626
EXAMINER: Martin Lerner
FOR: SYSTEM AND METHOD FOR THE CREATION AND AUTOMATIC DEPLOYMENT OF PERSONALIZED, DYNAMIC AND INTERACTIVE VOICE SERVICES, WITH SYSTEM AND METHOD THAT ENABLE ON-THE-FLY CONTENT AND SPEECH GENERATION

PRE-APPEAL BRIEF REQUEST FOR REVIEW

MAIL STOP AFTER-FINAL
Commissioner for Patents
P.O. Box 1450
Alexandria, VA. 22313-1450

Dear Sir:

In response to the Final Office Action mailed **July 19, 2006** (hereinafter "Final Action"), Applicants request a review of the Final Action in the above-referenced application. This request is being filed concurrently with a Notice of Appeal.

The review is requested for the reasons set forth in the Remarks beginning on page **2** of this paper.

A total of **5** pages are provided.

It is not believed that extensions of time or fees for net addition of claims are required beyond those that may otherwise be provided for in documents accompanying this paper. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned for under 37 C.F.R. § 1.136(a), and any fees required therefore (including fees for net addition of claims) are hereby authorized to be charged to Deposit Account No. 033975 (Ref. No. **067220-0312764**).

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REMARKS

Claims 27-36 and 38-45 are pending in this application. Claims 27-36 and 38-45 stand rejected. In view of the following comments, allowance of all the claims pending in the application is respectfully requested.

REJECTIONS UNDER 35 U.S.C. § 103

Review is requested for the rejection of claims 27-28, 34-35, and 43-44 under 35 U.S.C. § 103(a) over U.S. Patent No. 6,246,672 to Lumelsky (“Lumelsky”) in view of U.S. Patent No. 6,539,359 to Ladd *et al.* (“Ladd”) [Final Action, pg. 2]; and of claims 29-33, 36, 38-42, and 45 under 35 U.S.C. § 103(a) over the combination of Lumelsky and Ladd, further in view of U.S. Patent No. 6,430,545 to Honarvar *et al.* (“Honarvar”) [Final Action, pg. 6]. These rejections are improper for *at least* the reason that the Examiner has failed to establish a *prima facie* case of obviousness. In particular, as the references relied upon by the Examiner, viewed either alone or in combination, do not disclose, teach, or suggest *at least* the following features recited in independent claims 27 and 28:

...generating a unique active voice page for each subscriber of the at least one voice service, wherein a unique active voice page comprises personalized content created by applying subscriber-specific personalization information for a subscriber to the generated content...; and

...initiating an outbound communication to a subscriber to establish an interactive voice broadcast with the subscriber.

A. Neither Lumelsky nor Ladd, either alone or in combination, disclose, teach, or suggest “generating a unique active voice page [that] . . . comprises personalized content created by applying subscriber-specific information for a subscriber to the generated content.”

In the Final Action [at pgs. 2-3], the Examiner appears to rely on the content authoring tools of Lumelsky for “generating content.” Lumelsky appears to teach generating a plurality of Composite Encoded Speech (CES)-based files, which may be created via a human-authored TTS system or from known TTS systems where original speech is not available [Lumelsky, col. 8, lines 38-50; col. 10, lines 20-57; col. 12, lines 59-61; col. 13, lines 1-4; and col. 13, lines 17-38]. Although Lumelsky appears to teach “personalization” *generally*, in that CES-based files can be provided to subscribers based on user

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profiles defining topics of interest (e.g., international news, sports news, etc.) for the subscribers [Lumelsky, e.g., col. 10, lines 63-66; col. 11, lines 63-65; and col. 19, lines 53+], Lumelsky does *not* appear to teach or suggest that subscriber-specific personalization information is applied *to* a CES-based file (which the Examiner has defined as “generated content”) to *create* personalized content, and that a unique active voice page for a subscriber comprises the created personalized content.

The Examiner alleges that “*...a user’s list of topics of interest defines ‘a unique active voice page generated for the subscriber’*” [Final Action, pgs. 2-3]. Applicants disagree for at least the reason that Lumelsky discloses each user having a profile defining topics of interest. The profile is defined in terms of a list of topic categories (e.g., international news, sports news, *etc.*), which is distinct from “a unique active voice page” comprising personalized content. The user’s “list” of topic categories does not satisfy all claim features relating to the unique active voice page, as the “list” does *not* comprise personalized content *created* by applying subscriber-specific personalization information for a subscriber to a CES-based file, nor does the “list” comprise one or more input elements embedded in the unique active voice page used to request input from the subscriber. The “list” of topics only appears to provide an indication of what content the user may be interested in, and the content retrieved according to the list is not personalized (i.e., there is no “applying” step).

In response to previous arguments, the Examiner alleges that “one skilled in the art would recognize that each CES-based file must contain a topic or topics, inherently, in order for a user to be able to search for a CES-based file from data repository 401” [Final Action, pgs.8-9]. This allegation, the merits of which Applicants will not address here, is not relevant because the content of the CES-based files is tangential to the argument presented by Applicants (i.e., whether the user’s list of topics can properly be considered a “unique active voice page.”) For at least the reasons discussed above, it cannot. In addition, if the Examiner now considers the CES-based files to be the “unique active voice page,” the Examiner has still failed to establish that the CES-based files comprise “personalized content.” Whether the CES-based files comprise a topic or topics does not speak to the issue of “applying subscriber-specific personalization information for a subscriber to the generated content.” The Examiner takes the position that the CES-based files created using the authoring tool are the “generated content” [Final Action, pgs.2-3], but the CES-based files are not personalized when they are

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provided to users. Instead, the CES-based files are provided if they match a topic of interest, but the content contained therein is not personalized.

For at least these reasons, the rejection of claims 27 and 28 is improper. Accordingly, the rejection should be withdrawn.

B. Neither Lumelsky nor Ladd, either alone or in combination, disclose, teach, or suggest “initiating an outbound communication to a subscriber to establish an interactive voice broadcast with the subscriber.”

Lumelsky fails to disclose, teach, or suggest the feature of “initiating an outbound communication to a subscriber to establish an interactive voice broadcast with the subscriber.” Rather, Lumelsky appears to require users to establish a session to retrieve information [Lumelsky, *e.g.*, col. 10, line 63 - col. 11, line 50]. Lumelsky recites that “[t]he user initiates a communications session by issuing a log-on command” [col. 11, lines 48-65]. Thus, in Lumelsky, the user initiates a communication session, and the PRSS 201 subsequently forwards appropriate CES-based files to the user's terminal. In the Final Action [pg. 4], the Examiner recites that Lumelsky discloses “push technology” (at col. 11, line 22) and alleges that “*implicitly, ‘push technology’ involves ‘initiating an outbound communication to the subscriber.*” Applicants disagree for *at least* the reason that Lumelsky recites that “users request CES-based documents by placing a call from their user terminal 301 to a PRSS 201,” and the PRSS may subsequently provide retrieved information to the user using “push technology” [Lumelsky, col. 10, line 63 – col. 11, line 30]. Because users must request documents by first placing a call to a PRSS, Lumelsky appears to disclose that users initiate communication. Once communication has been initiated by the user, Lumelsky appears to disclose two methods for information retrieval, which are schemes similar to conventional methods of searching and browsing the Internet. The provided example of “push technology” appears to be applicable to the methods of information retrieval that may be utilized *once communication has been initiated by a user.*

In response to previous arguments, the Examiner alleges that “initiating an outbound communication to a subscriber” is met by Lumelsky “according to principles of broadest reasonable interpretation.” The Examiner’s interpretation is not reasonable. In particular, the Examiner alleges that “simply logging on to establish a session by a calling user does not preclude a further outbound

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communication being later initiated by a server under push technology.” The Examiner alleges that the feature is subject to “a significantly and reasonably broader interpretation” because the claim does not positively recite a server placing a telephone call to a subscriber, or negatively recite that a subscriber does not call the server [Final Action, pgs. 10-11]. The Examiner’s interpretation is unreasonable because it ignores that the claim recites that the “outbound communication” serves to “*establish* an interactive voice broadcast with the subscriber” (emphasis added), whereas in Lumelsky, the broadcasts only appear to be established after a user initiates an inbound communication, upon the user’s request. The Examiner’s interpretation is unreasonable for at least the reasons that it equates “inbound” and “outbound” communications, as well as communications initiated “by a subscriber” and “to a subscriber.”

For at least each of the foregoing reasons, the Examiner has failed to establish a *prima facie* case of obviousness. Accordingly, independent claims 27-28 are patentable over Lumelsky in view of Ladd. Dependent claims 29-36 and 38-45 are allowable because they depend from allowable claims, as well as for the further features they recite.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Date: October 18, 2006

Respectfully submitted,

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